

Serial No.: 10/792,142
Response to OA of 03/23/05

Remarks

In the present response, two claims (2, 3) are withdrawn; one claim (7) is amended; and eight claims (8-15) are newly added. No new matter is added.

Claims 1 and 4-15 are presented for examination.

I. Restriction

Applicant affirms election of species 3, claims 1 and 4-7. Claims 2 and 3 are withdrawn.

II. Double Patenting

Claim 7 is rejected under 35 USC 101 as claiming the same invention as that of claim 1 of prior USPN 6,802,586. Applicant respectfully traverses.

Claim 7 is amended to recite limitations not recited in claim 1 of USPN 6,802,586. Applicant respectfully asks the Examiner to withdraw this rejection.

III. Claim Rejections: 35 USC § 102

Claims 1 and 4 – 7 are rejected under 35 U.S.C. §102(b) as being anticipated by “1.2 GB Firmware Utility” developed by Apple Computer, Inc (hereafter, Apple).

Applicant respectfully traverses.

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See MPEP § 2131, also, *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Since Apple neither teaches nor suggests each element in the rejected claims, these claims are allowable over Apple.

Claim 1 recites numerous limitations that are not taught or suggested in Apple. By way of example, claim 1 recites a **consumable** component. Apple does not teach or suggest a **consumable** component. Instead, Apple is directed to a floppy disk.

According to MPEP § 2111, the terms in a claim must be given their plain meaning (i.e., the ordinary and customary meaning given to the term by those of ordinary

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skill in the art). Merriam-Webster is an online dictionary (www.merriam-webster.com) that defines consumable as follows:

consumable
Function: *adjective*
: capable of being consumed

A floppy disk is not capable of being consumed. For at least this reason, claim 1 is allowable over Apple.

A dependent claim inherits the limitations of a base claim. Thus, for at least the reasons given in connection with claim 1, the dependent claims are allowable over Apple.

IV. New Claims

New claims 8 to 15 recite numerous limitations that are not taught or suggested in the art of record. By way of example, claim 11 recites "a memory storing readable program code having a downloadable upgrade version of program code for a computerized apparatus that is in communication with the print cartridge."

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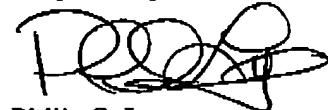
CONCLUSION

In view of the above, Applicant believes all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Respectfully submitted,



Philip S. Lyren
Reg. No. 40,709
Ph: 281-514-8236

CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 703-872-9306 on this 22nd day of June, 2005.

By C. B. Henry
Name: C. B. Henry